

ADMINISTRATIVE PANEL DECISION

978 Tech N. V. v. Nguyen Chinh Hung, chinh
Case No. D2024-3540

1. The Parties

The Complainant is 978 Tech N. V., Curaçao, Netherlands (Kingdom of the), represented by JusTec Brand Protection, United States of America (“United States”).

The Respondent is Nguyen Chinh Hung, chinh, Viet Nam.

2. The Domain Name and Registrar

The disputed domain name <8xbetabc.net> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 1, 2024. On September 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 6, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 10, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on September 12, 2024.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on September 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 4, 2024.

The Center appointed Karen Fong as the sole panelist in this matter on October 9, 2024. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant operates an online gambling site website (the “Complainant’s Website”) linked to the domain name <8xbet.com>. The Complainant has applied for various trade marks associated with the term “8xbet”. This includes the United States Trade Mark Registration No. 7485266 for 8XBET, filed on May 16, 2023 and registered on August 27, 2024.

The Complainant started its business under the 8XBET brand in January 2022 and has since then become the largest betting website in Asia and one of the leading online gambling websites in the world. The Complainant is one of the major sponsors of the Manchester City Football Club which has won the UEFA championship for the 2022/2023 season. It is also the official Asia betting partner of the following football English football clubs - Chelsea FC, Leicester City FC, Ipswich FC, and AFC Bournemouth.

The Respondent who appears to be based in Viet Nam, registered the disputed domain name on July 18, 2024. The disputed domain name resolves to an online gambling website which is in Vietnamese (“the Website”). The Website contain amongst other things the name “8XBET” prominently displayed in the same stylized form used by the Complainant on the Complainant’s Website as well as images of Manchester City footballers.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is identical and/or confusingly similar to the Complainant’s 8XBET trade mark, that the Respondent has no rights or legitimate interests with respect to the disputed domain name, and that the disputed domain name was registered and is being used in bad faith. The Complainant requests transfer of the disputed domain name.

B. Respondent

The Respondent did not reply to the Complainant’s contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for identity or confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trade mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown registered and unregistered trade mark rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

With respect to unregistered trade mark rights, as discussed in section 1.3 of the [WIPO Overview 3.0](#), to establish unregistered or common law trade mark rights for purposes of the UDRP, the complainant must show that its mark has become a distinctive identifier which consumers associate with the complainant's goods and/or services. Relevant evidence demonstrating such acquired distinctiveness (also referred to as secondary meaning) includes a range of factors such as (i) the duration and nature of use of the mark, (ii) the amount of sales under the mark, (iii) the nature and extent of advertising using the mark, (iv) the degree of actual public (e.g., consumer, industry, media) recognition, and (v) consumer surveys. Particularly with regard to brands acquiring relatively rapid recognition due to a significant Internet presence, panels have also been considering factors such as the type and scope of market activities and the nature of the complainant's goods and/or services. The fact that a respondent is shown to have been targeting the complainant's mark (e.g., based on the manner in which the related website is used) may support the complainant's assertion that its mark has achieved significance as a source identifier.

The evidence provided by the Complainant especially its sponsorship in Asia of Manchester City Football Club would have generated substantial media presence and attention for the Complainant. In light of the above and the nature of the Complainant's online gambling business, the Panel accepts that it is more likely than not that this business has indeed grown rapidly since its inception in January 2022 and that the 8XBET trade mark has become a distinctive identifier that a significant number of consumers associate with the Complainant's gambling services. The fact that the Respondent is using the 8XBET trade mark in the same stylized form as the Complainant supports a finding that the mark has achieved significance as a source identifier. This is sufficient to find that the Complainant has established unregistered trade mark rights in the 8XBET trade mark for the purposes of the Policy.

The Panel finds the entirety of the Complainant's 8XBET trade mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to 8XBET trade mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of the other term "abc" may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the 8XBET trade mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Moreover, the nature of the disputed domain name is inherently misleading as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Here, the Panel concludes that the Complainant had accrued unregistered trade mark rights prior to the date the Respondent registered the disputed domain name (see above). Whilst the 8XBET trade mark was registered just about a month after the date of registration of the disputed domain name, the application was filed about a year earlier. As discussed above, the Complainant must have received significant media attention following the commencement of its partnership with Manchester City Football Club. The Panel concludes that the Respondent chose to register a domain name which included the 8XBET trade mark to attract gambling customers who will recognise the mark. The Panel therefore finds that the registration is in bad faith.

Under paragraph 4(b) of the Policy a non-exhaustive list of factors evidencing registration and use in bad faith comprises:

- (i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trade mark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or
- (ii) you have registered the domain name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.

In the present circumstances, the Panel agrees with the Complainant that factor (iv) applies as the Respondent was seeking to achieve commercial gain by attracting gambling customers by in effect impersonating the Complainant. The Panel also notes that the Respondent has not filed a Response and hence has not availed itself of the opportunity to present any case of good faith that it might have. The Panel infers that none exists.

The Panel therefore also concludes that the disputed domain name was registered and is being used in bad faith under paragraph 4(b)(iv) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <8xbetabc.net> be transferred to the Complainant.

/Karen Fong/

Karen Fong

Sole Panelist

Date: October 17, 2024